

# NOTICES OF RULEMAKING DOCKET OPENING

The Administrative Procedure Act (APA) requires the publication of Notices of Rulemaking Docket Opening when an agency opens a rulemaking docket to consider rulemaking. Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process.

## NOTICE OF RULEMAKING DOCKET OPENING

### DEPARTMENT OF LAW CIVIL RIGHTS DIVISION

*Editor's Note: The following Notice of Rulemaking Docket Opening was exempt from Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 1962.)*

[R11-146]

- 1. Title and its heading:** 10, Law  
**Chapter and its heading:** 3, Department of Law – Civil Rights Division  
**Article and its heading:** 4, The Arizonans with Disabilities Act  
**Section numbers:** R10-3-401, R10-3-402, R10-3-403, R10-3-404 (Sections may be added, deleted, or modified as necessary.)

- 2. The subject matter of the proposed rule:**  
In enacting the Arizonans with Disabilities Act (AzDA), the Legislature intended to provide “a uniform accessibility code” for Arizona that is “consistent” with the Americans with Disabilities Act (ADA) and its implementing regulations. Laws 1992, Ch. 224, § 1(B)(4) and (C). It thus mandated that compliance with Titles II and III of the ADA and its implementing regulations be deemed compliance with the AzDA. A.R.S. § 41-1492.06(B). The Legislature granted the Attorney General authority to adopt rules to carry out the AzDA. A.R.S. § 41-1492.06(A). It required, however, that such rules not exceed the regulations, guidelines and standards issued by the U.S. Department of Transportation and the U.S. Department of Justice relating to Titles II and III of the ADA. A.R.S. § 41-1492.06(B). It also required the Attorney General to periodically review and amend its rules to achieve consistency with regulations promulgated pursuant to the ADA. A.R.S. § 41-1492.06(C). The Attorney General has general authority to “adopt rules for the orderly conduct of the business of the department” pursuant to A.R.S. § 41-192(B)(2).

On September 15, 2010, a final rule amending the regulations relating to Titles II and III of the ADA was published in the *Federal Register*. The amended regulations, which include changes to 28 CFR 35 and 36 and the 2010 Standards for Accessible Design (2010 Standards), which are comprised of 28 CFR 35.151, 28 CFR 36.401 through 36.406, and appendices B and D to 36 CFR 1191, went into effect on March 15, 2011. Compliance with the 2010 Standards was permitted as of September 15, 2010, and will be required as of March 15, 2012.

In addition, despite two efforts to amend A.A.C. R10-3-402 in 1996 and 1997, the Arizona Attorney General has never adopted the ADA regulations promulgated by the U.S. Department of Transportation. See 3 A.A.R. 1258, May 9, 1997, 2 A.A.R. 4865, December 6, 1996. Because the relevant rules were last amended in 2006, it is now necessary for the Attorney General to adopt certain parts of them and incorporate them by reference into our rules.

To achieve consistency with the revised federal ADA regulations as required by A.R.S. § 41-1492.06(C), the Attorney General must amend A.A.C. R10-3-401, R10-3-402, R10-3-403, and R10-3-404 to reflect the amendments to 28 CFR 35 and 36 and 36 CFR 1191, to incorporate the 2010 Standards, and to incorporate the Department of Transportation regulations.

- 3. A citation to all published notices relating to the proceeding:**  
Notice of Proposed Rulemaking: 17 A.A.R. 1906, September 30, 2011 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**  
Name: Ann Hobart, Civil Rights Division, Litigation Section Chief Counsel  
Address: 1275 W. Washington St.  
Phoenix, AZ 85007-2926  
Telephone: (602) 542-8608  
Fax: (602) 542-8899  
E-mail: ann.hobart@azg.gov

- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**  
The Office of the Attorney General invites and will accept written comments Monday through Friday, 8:00 a.m. to 5:00 p.m., at the address listed in item 4, until October 31, 2011. A public hearing will be held:  
Date: November 1, 2011

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Time: 1:00 p.m. to 4:00 p.m.  
Place: Arizona Attorney General's Office  
Capital Center Building  
15 S. 15th Ave., Basement Conference Rooms A & B  
Phoenix, AZ 85007

**6. A timetable for agency decisions or other action on the proceeding, if known:**

Notice of Proposed Rulemaking: 17 A.A.R. 1906, September 30, 2011 (*in this issue*)

**NOTICE OF RULEMAKING DOCKET OPENING**

**DEPARTMENT OF REVENUE  
INCOME AND WITHHOLDING TAX SECTION**

*Editor's Note: The following Notice of Rulemaking Docket Opening was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 1962.) The Governor's Office authorized the notice to proceed through the rulemaking process on May 5, 2011.*

[R11-144]

- 1. Title and its heading:** 15, Revenue  
**Chapter and its heading:** 2, Department of Revenue – Income and Withholding Tax Section  
**Subchapter and its heading:** C, Individuals  
**Article and its heading:** 5, Credits  
**Section numbers:** R15-2C-503 (Sections may be added, deleted, or modified as necessary.)

- 2. The subject matter of the proposed rule:**  
The rules will amend Subchapter C, Article 5 to address issues related to the renewable energy production tax credit.

**The agency docket number:**  
11-2-01

- 3. A citation to all published notices relating to the proceeding:**  
Notice of Proposed Rulemaking: 17 A.A.R. 1909, September 30, 2011 (*in this issue*)

**4. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Helen Armstrong, Tax Analyst  
Address: Tax Policy and Research Division  
Arizona Department of Revenue  
1600 W. Monroe St., Room 810  
Phoenix, AZ 85007  
Telephone: (602) 716-6805  
Fax: (602) 716-7995  
E-mail: harmstrong@azdor.gov

- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**  
To be published in the Notice of Proposed Rulemaking.

- 6. A timetable for agency decisions or other action on the proceeding, if known:**  
Notice of Proposed Rulemaking: 17 A.A.R. 1909, September 30, 2011 (*in this issue*)

**NOTICE OF RULEMAKING DOCKET OPENING**

**DEPARTMENT OF REVENUE  
INCOME AND WITHHOLDING TAX SECTION**

*Editor's Note: The following Notice of Rulemaking Docket Opening was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 1962.) The Governor's Office authorized the notice to proceed through the rulemaking process on May 5, 2011.*

[R11-142]

- 1. Title and its heading:** 15, Revenue  
**Chapter and its heading:** 2, Department of Revenue – Income and Withholding Tax Section  
**Subchapter and its heading:** D, Corporations

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**Article and its heading:**

10, Credits

**Section numbers:**

R15-2D-1002 (Sections may be added, deleted, or modified as necessary.)

**2. The subject matter of the proposed rule:**

The rules will amend Subchapter D, Article 10 to address issues related to the renewable energy production tax credit.

**The agency docket number:**

11-2-02

**3. A citation to all published notices relating to the proceeding:**

Notice of Proposed Rulemaking: 17 A.A.R. 1912, September 30, 2011 (*in this issue*)

**4. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Helen Armstrong, Tax Analyst

Address: Tax Policy and Research Division  
Arizona Department of Revenue  
1600 W. Monroe St., Room 810  
Phoenix, AZ 85007

Telephone: (602) 716-6805

Fax: (602) 716-7995

E-mail: harmstrong@azdor.gov

**5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**

To be published in the Notice of Proposed Rulemaking.

**6. A timetable for agency decisions or other action on the proceeding, if known:**

Notice of Proposed Rulemaking: 17 A.A.R. 1912, September 30, 2011 (*in this issue*)